

October 11, 1993
REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

U.S.A. V. CITY OF SAN DIEGO,
CASE NO. 88-1101-B

On October 6, 1993 and October 8, 1993, hearings in this case involving the extent and timing of improvements to the metropolitan sewerage system were held in the U.S. Ninth Circuit Court of Appeals and the U.S. District Court, respectively.

The appellate court issues centered on whether Judge Brewster had abused his discretion in granting a nineteen (19) month extension to pursue the Consumers' Alternative and in awarding attorneys' fees to the Sierra Club. The appellate court took both issues under submission but did request a letter informing it of the results of the District Court status conference hearing.

The District Court hearing was a status conference on eleven (11) sewage-related issues. At the end of the hearing, Judge Brewster set a hearing date of December 7, 1993 to determine whether the Consent Decree lodged in January of 1990 should be entered as a final order. In accordance with your prior direction, the City will oppose entry.

The hearing date will be conveyed to the Ninth Circuit as requested. In light of the close proximity of the hearing, a Ninth Circuit ruling directing any different action is not expected. A Ninth Circuit ruling on the attorneys' fees issue is expected, however, since this was a separate issue.

Respectfully submitted,
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City Attorney

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